

DEC 6 1996

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CLB

In the Matter of:) Docket No. 96A-157-INS
)
OTIS CHEERFUL CANUPP) **ORDER**
)
Respondent.)
)
)

On December 2, 1996, the Office of Administrative Hearings, through Administrative Law Judge Kip M. Micuda submitted "Recommended Decision of Administrative Law Judge ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

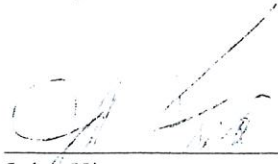
1. The recommended findings of fact and conclusions of law are adopted.
2. The Life and Disability insurance agent license issued to Otis Cheerful Canupp is revoked.

NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R20-6-114(B).

1 The final decision of the Director may be appealed to the Superior Court of Maricopa
2 County for judicial review pursuant to A.R.S. § 20-166.

3 EFFECTIVE this 6th day of December, 1996

4
5 
6 John King
Director of Insurance

7 A copy of the foregoing mailed
8 this 6th day of December, 1996

9 Charles R. Cohen, Deputy Director
10 John Gagne, Assistant Director
11 Catherine O'Neil, Assistant Director
12 Maureen Catalioto, Supervisor
13 Olivia R. Duarte, Investigator
14 Department of Insurance
15 2910 North 44th Street, Suite 210
16 Phoenix, AZ 85018

17 Office of Administrative Hearings
18 1700 West Washington, Suite 602
19 Phoenix, AZ 85007

20 Gerrie Marks
21 Assistant Attorney General
22 1275 West Washington
23 Phoenix, AZ 85012

Otis Cheerful Canupp
P.O. Box 18290
Tucson, AZ 85731

Otis Cheerful Canupp
7701 East 34th Street
Tucson, AZ 85731

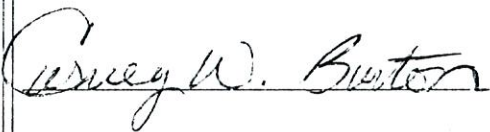
1 Otis Cheerful Canupp
Aurum Financial Services, Ltd.
2 106 S. Kolb Road
Tucson, AZ 85710

3 Aurum Financial Services, Ltd.
4 106 S. Kolb Road
Tucson, AZ 85710

5 Lincoln Benefit Life Company
6 P.O. Box 80469
Lincoln, NE 68501

7 Travelers Life Insurance Company
8 Corporate Tax 5PB
One Tower Square
9 Hartford, CT 06183-6014

10 United American Insurance Company
P.O. Box 810
11 Dallas, TX 75221

12 
13

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30

No. 96A-157-INS

RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE

Respondent.

HEARING: November 27, 1996

APPEARANCES: Otis Cheerful Canupp, Respondent, failed to appear. Gerrie L. Marks, Assistant Attorney General, appeared representing the Arizona Department of Insurance.

ADMINISTRATIVE LAW JUDGE: Kip M. Micuda

The hearing in this matter was held for the purpose of determining whether the Director of the Arizona Department of Insurance (the "Department") should revoke Respondent's individual life and disability insurance agent license. Evidence was presented and, based upon the entire record, the following Findings of Fact, Conclusions of Law, and Recommended Decision are made:

FINDINGS OF FACT

1. Otis Cheerful Canupp, Respondent, is currently licensed as a life and disability insurance agent (License No. 189870). Mr. Canupp's license is due to expire on October 31, 1997.

2. On or about April 24, 1994, a Grand Jury Indictment was filed against

• • •

• • •

1 Mr. Canupp in Pima County Superior Court. State of Arizona v. Canupp, No. CR45410.

2 The indictment charged Mr. Canupp with five felony counts, including one for
3 Tampering with a Public Record; that is, forging signatures on a quitclaim deed and
4 then filing the document with the Pima County Recorder's Office.

5 3. On December 6, 1994, Mr. Canupp entered into a Plea Agreement on the
6 charges, pleading guilty to Tampering with a Public Record, a Class Six felony.

7 4. On January 19, 1995, the court convicted Mr. Canupp of Tampering with a
8 Public Record, sentencing him to thirty (30) days incarceration, three (3) years
9 probation, community service, and the payment of fines and penalties.

11 APPLICABLE LAW

12 A.R.S. §20-316(A) states that the Director may suspend, revoke, or refuse to
13 renew any license for any of the following reasons:

14 1. The existence of any cause for which original issuance or
15 any renewal of the license could have been refused.

16 xxx

17 6. Conviction by final judgment of a felony involving moral
18 turpitude.

19 A.R.S. §20-290(B) allows the Director to refuse to issue any license if he finds, for
20 example, the following:

21 2. A record of dishonesty on the part of the applicant in
22 business or financial matters.

23 xxx

24 6. A record of conviction by final judgment of a felony involving
25 moral turpitude.

26 CONCLUSIONS OF LAW

27 1. This matter is within the jurisdiction of the Director of the Arizona
28 Department of Insurance, pursuant to A.R.S. §20-161.

1 2. The Department has the burden of demonstrating by a preponderance of
2 the evidence that Mr. Canupp's individual and disability insurance agent license should
3 be revoked.

4 3. Mr. Canupp's Tampering with a Public Record conviction evidences
5 dishonesty on his part in business or financial matters, a violation of §20-290(B)(1).
6 Accordingly, the Director may revoke Mr. Canupp's license, pursuant to §20-316(A)(1).

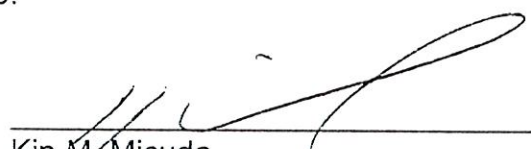
7 4. Mr. Canupp's conviction also evidences a final judgment of a felony
8 involving moral turpitude, a violation of both §20-290(B)(6) and §20-316(A)(6). "Moral
9 turpitude" encompasses offenses that "involve intentional dishonesty for personal gain."
10 Matter of Kent, 467 A.2d 982, 984 (D.C. App. 1983); see Mungarro v. Riley, 170 Ariz.
11 589, 590, 826 P.2d 1215 (Ariz. 1992); State ex rel. Dean v. Dony, 161 Ariz. 297, 300,
12 778 P.2d 1193 (Ariz. 1989); Howard v. Nicholls, 127 Ariz. 383, 388, 621 P.2d 292 (Ariz.
13 1980). Accordingly, the Director may revoke Mr. Canupp's license, pursuant to either
14 §§20-316(A)(1) or 316(A)(6).

15 A.R.S. §20-316(A) does not mandate discipline, rather it gives the Director
16 discretion. Nevertheless, this Judge concludes, in light of the complete record, that this
17 matter is one in which the Director should revoke the license in issue.
18

19 RECOMMENDED DECISION

20 Based on the foregoing, it is recommended that the Director revoke Otis Cheerful
21 Canupp's life and disability insurance agent license.
22

23 Done this day, December 2, 1996.

24
25 
26 Kip M. Micuda
27 Administrative Law Judge
28
29
30

1 Original transmitted by mail this
2 3 day of December, 1996, to:

3 John King, Director
4 ATTN: Curvey Burton
5 Department of Insurance
6 2910 North 44th Street, #210
7 Phoenix, AZ 85018-7256

8
9 By

